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500.41372X00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): H. YAMAMOTO, et al
Serial No.: 10/087,771
Filed: March 5, 2002
For: PLASMA PROCESSING APPARAUTS AND METHOD
Group: 1765
Examiner: K. Chen

RESPONSE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

May 27, 2004

Sir:

The following remarks are respectfully submitted in connection with the above-identified application in response to the Office Action dated April 27, 2004.

The requirement for restriction to one of the inventions identified by the Examiner as invention I - claims 1-7, drawn to a system/apparatus, classified in class 156, subclass 345 and invention II - claims 8-11, drawn to a method, classified in class 438, subclass 706, is traversed, and reconsideration and withdrawal thereof are respectfully requested.

In setting forth the requirement for restriction, the Examiner contends that inventions I and II are related as process and apparatus for its practice and sets forth the requirements of MPEP §806.05(e) as to the requirements for showing distinctness which are in terms of (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. The Examiner contends that "In this case the process as claimed can be practiced by another

materially different apparatus or by hand such as using a system detecting the concentration or composition of the plasma." (emphasis added) Applicants submit that the Examiner's contentions concerning a different apparatus do not relate to the invention as claimed. That is, the process of invention II of claims 8-11 recite the features of detecting and storing first data of light inside the light transmissive member before processing the workpiece as well as detecting second data of light inside the light transmissive member generated during processing the workpiece (as recited in each of independent claims 8-11 of invention II). In a similar manner, claim 1 of invention I provides that a state of processing the workpiece is detected by using data detected from light inside said light transmissive member before processing the workpiece and data detected from light inside said light transmissive member generated during processing the workpiece. Independent claims 2-4 of the invention I further define the feature of using data detected from light inside the light transmissive member before and after processing the workpiece, which features are coextensive with the features recited in the method claims 8-11 of invention II. Thus, the Examiner's suggestion of using a system detecting the concentration or composition of the plasma does not relate to the claimed features of detecting data of light of the transmissive member before and during processing of the workpiece as recited in the independent claims of inventions I and II.

Applicants submit that, as pointed out above, the Examiner has failed to show distinctness in accordance with MPEP §806.05(e), it being noted that the claimed features of invention I of claims 1-7 are substantially coextensive with the claimed features of invention II of claims 8-11, such that the Examiner has failed to properly show distinctness in accordance with the requirements for supporting a restriction requirement. Accordingly, applicants submit that the requirement for restriction should be withdrawn.

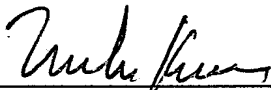
In order to provide a complete response to the restriction requirement, applicants provisionally elect, with traverse, invention I including claims 1-7.

Applicants note that submitted herewith is an Information Disclosure Statement and consideration of the document submitted is respectfully requested.

In view of the above remarks, favorable consideration of all claims in this application is respectfully requested.

To the extent necessary, applicant's petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 01-2135 (500.41372X00) and please credit any excess fees to such deposit account.

Respectfully submitted,



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